
EMERGENCY REMOVAL OF AN INDIAN CHILD

If an Indian child is in danger of imminent physical damage or harm, the Michigan Department of Health and Human Services (MDHHS) must provide emergency intervention to ensure the child's safety, including emergency placement; MCL 712B. 7(2).

Case Conference or Family Team Meeting (FTM)

The caseworker must invite the designated ICWA Indian agent/tribal caseworker to a case conference or FTM. A case conference or Family Team Meeting (FTM) must be held within **two** working days of an emergency placement.

TERMINATION OF EMERGENCY PLACEMENT

The emergency removal or placement must end immediately when no longer necessary to prevent imminent physical damage or harm to the Indian child. A child custody proceeding must be initiated immediately to transfer the Indian child to the jurisdiction of the appropriate Indian tribe, or restore the Indian child to the parent or Indian custodian, if appropriate.

An emergency proceeding regarding an Indian child should not be continued for more than 30 days unless the court makes the following determinations:

- (1) Restoring the child to the parent or Indian custodian would subject the child to imminent physical damage or harm;
- (2) The court has been unable to transfer the proceeding to the jurisdiction of the appropriate Indian Tribe; and
- (3) It has not been possible to initiate a "child-custody proceeding" as defined in 25 CFR 23.2.

Continued emergency placement of an Indian child must be supported by clear and convincing evidence. There must be testimony from at least one qualified expert witness (QEW) that custody of the Indian child by the parent or Indian custodian is likely to result serious physical damage or harm to the Indian child; and active

efforts were provided to the family and were unsuccessful. MDHHS must document the efforts made to place the Indian child using the placement priorities during the emergency placement period; see also NAA 215, Placement/Replacement Priorities for Indian Child(ren); see MCL 712B.15(2) and MCL 712B.5.

If an Indian child is charged with a status offense, the Indian child must not be removed from a parent or Indian custodian unless the removal is to prevent imminent physical damage or harm to the Indian child; see also NAA 500, Juvenile Justice for Indian Child(ren).

Qualified Expert Witness (QEW)

In a continued emergency placement, caseworkers must obtain a QEW when a child custody proceeding is imminent or expected; see NAA 205 & 210.

LEGAL BASIS

Bureau of Indian Affairs (BIA) ICWA Final Rule, 25 CFR 23.

Indian Child Welfare Act, 25 USC 1901 et seq.

Michigan Indian Family Preservation Act, MCL 712B. 1 - 41.